CAUSE OF ACTION—Intentional Tort CAUSE OF ACTION—Intentional Tort Page		PLD-PI-001(3)
CAUSE OF ACTION—Intentional Tort Cause of Action Complaint Cross - Complaint		
(number) ATTACHMENT TO Complaint Cross - Complaint (Use a separate cause of action form for each cause of action.) IT-1. Plaintiff (name): JERUN BAKKN alleges that defendant (name): PARISE YOUNG # OS was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to actidefendant intentionally a caused the damage to plaintiff on (date): Young at (place): At CA (description of reasons for liability): OJ Z.ZZ.IZ VACAVIUE POUCE OFFICE RESAURCE YOUNG SEIZER & ZYOLOD OF MY ASH. ON Z.G.13 THE CASE WAS PISMISSE THE ATTACHEE	JERNO BAKER V. VVPT DARREN GOUNG	5:14-11951
ATTACHMENT TO Complaint Cross - Complaint (Use a separate cause of action form for each cause of action.) IT-1. Plaintiff (name): JERM BAKEN alleges that defendant (name): PARKEN JOUNG # 405 was the legal (proximate) cause of damages to plaintiff. By the following acts or on issions to act defendant intentionally as caused the damage to plaintiff on (date): A CA (description of reasons for liability): Q J Z Z Z J Z VACANUCK POLICE OFFICER BARREN YOUNG SELZED # 2401.00 OF Mg ASH ON Z 6.13 THE CASE WAS PISMISSE THE ATTACHED		al Tort Page
alleges that defendant (name): PARCE JOUNG #405 MAR 10 2014 Does to		
alleges that defendant (name): PARCE JOUNG #405 MAR 10 2014 Does to	(Use a separate cause of action form for each cause of action.)	and the same of th
was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally a caused the damage to plaintiff on (date): at (place): (description of reasons for liability): OFFICER PARKET YOULG SEIZED & 2401.00 OF MY ASH. ON Z. 8.13 THE CASE WAS PISMISSE THE HAVE FOT BEEL GIVEN MY 2401.00 BACK. SEE THE ATTACHED	IT-1. Plaintiff (name): JERRY BAKEN	104:11:11
was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act defendant intentionally is caused the damage to plaintiff on (date): at (place): (description of reasons for liability): OFFICER PARKET YOUNG SEIZED & ZYOLOD OF MY ASH. ON Z.6.13 THE CASE WAS PISMISSE TO STILL HAVE FOT BEEN BIVEN MY ZYOLOD BACK. SEE THE ATTACHED	alleges that defendant (name): PARAS JOUNG TH	40>
was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally accused the damage to plaintiff on (date): at (place): (description of reasons for liability): OFFICER PARKER YOURS SEIZED & 2401.00 OFMY ASH. ON Z. 6.13 THE CASE WAS PISMISSE TO STILL HAVE NOT BEEL GIVEN MY 2401.00 BACK. SEE THE ATTACHED		MAR 1 0 2014
caused the damage to plaintiff on (date): 2 22 18 at (place): VAC. CA (description of reasons for liability): 0 1 2 22 12 VACAVILLE POLICE OFFICER PARKET YOUNG SEIZED \$ 2401.00 OFMY A5H. ON 2.6.13 THE CASE WAS PISMISSE T STILL HAVE FOT BEEN GIVEN MY 2401.00 BACK, SEE THE ATTACHED	Does to	TOTAL STEEL COURT
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OFFICER GARREY YOUNG SEIZED \$ 2401.00 OF MY LASH. OH Z. G. 13 THE CASE WAS PISMISSED I STILL HAVE NOT BEEN GIVEN MY 2401.00 BACK, SEE THE ATTACHED	the state of the s	#1
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SHORT TITLE				#605	CASE NUMBE	R	
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	(number)		7	1-1-1			
ATTACHM	IENT TO ALL C	omplaint L	☐ Cross - Comp	laint			
(Use a s	separate cause of ac	4 4	11 10 11 11 11 11	n.)			
IT-1. Pla	aintiff (name): JE	inny 8	BAKU	Contraction	and Law		
alleç	ges that defendant (name): PAI	2052 3	10V16 #	605		
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	PLD-PI-001(3)
SHORT TITLE: #60	CASE NUMBER
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CAUSE OF ACTION—Intentio	onal Tort Page
ATTACHMENT TO Complaint Cross - Complaint	
(Use a separate cause of action form for each cause of action.) IT-1. Plaintiff (name): TEMY BAKEN	
IT-1. Plaintiff (name): JERRO BARVO	4106
alleges that defendant (name): PARRE - SOVICS =	H 60 >
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Does to	
was the legal (proximate) cause of damages to plaintiff. By the following	acts or omissions to act, defendant intentionally
caused the damage to plaintiff on (date):	
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OFFICER PARKET YOUNG SEI	250 \$ 6401.00 OFW
CASH. ON 2.8.13 THE CA	SE WAS PISMISSE
I STILL HAVE POT !	BEEL GIVEN MY
52401.00 BACK, SEE	THE ATTACHED
FORFETURE RECEIPT.	

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§27315

thelts which are installed for the use of persons

der shall sell or offer for sale any used passenger factured on or after January 1, 1968, other than unless it is equipped with seatbelts for each

Its required in subdivisions (a) and (b) shall regulations established by the department.

Equirements of this section shall not apply to ers. automobile dismantlers, or junk dealers.

1. 723, Stats. 1979. Effective January 1, 1980.

ety Belts

(a) (1) Subject to paragraph (3), no dealer shall for sale any used passenger vehicle of a model 2 to 1990, inclusive, unless there is affixed to the the left front door or, if there is no window, to itable location so that it may be seen and read by standing outside the vehicle at that location, a sted in 14-point type, which reads as follows:

ING: While use of all seat belts reduces the chance failure to install and use shoulder harnesses with can result in serious or fatal injuries in some ap-only belts increase the chance of head and neck allowing the upper torso to move unrestrained in a d increase the chance of spinal column and I injuries by concentrating excessive force on the rso. Because children carry a disproportionate of body weight above the waist, they are more likely in those injuries. Shoulder harnesses may be that can be retrofitted in this vehicle. For more ion call the Auto Safety Hotline at 1-800-424-9393."

he notice shall remain affixed to the vehicle pursuant raph (1) at all times that the vehicle is for sale.

he notice is not required to be affixed to any vehicle d with both a lap belt and a shoulder harness for the nd one passenger in the front seat of the vehicle and ast two passengers in the rear seat of the vehicle.

1) In addition to the requirements of subdivision (a), bject to paragraph (3) and subdivision (c), the dealer fix, to one rear seat lap belt buckle of every used ger vehicle of a model year of 1972 to 1990, inclusive, as a rear seat, a notice, printed in 10-point type, that as follows:

ARNING: While use of all seat belts reduces the chance ion, failure to install and use shoulder harnesses with alts can result in serious or fatal injuries in some s. Shoulder harnesses may be available that can be itted in this vehicle. For more information, call the Auto Hotline at 1-800-424-9393."

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The message is not required to be affixed to any vehicle requipped with both a lap belt and a shoulder harness least two passengers in the rear seat or having no rear ap belts:

A dealer is not in violation of subdivision (b) unless a

private nonprofit entity has furnished a supply of the appropriate notices suitable for affixing as required free of charge or, having requested a resupply of notices, has not received the resupply.

(d) The department shall furnish, to a nonprofit private entity for purposes of this section, for a fee not to exceed its costs in so furnishing, at least once every six months, a list of all licensed dealers who sell used passenger vehicles.

Amended Sec. 11, Ch. 619, Stats. 1997. Effective January 1, 1998.

Mandatory Seat Belt Law

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems () 1 that require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal motor vehicle safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the

Motor Vehicle Safety Act.

(c) (1) As used in this section, "motor vehicle" means a passenger vehicle, a motortruck, or a truck tractor, but does not include a motorcycle.

(2) For purposes of this section, a "motor vehicle" also means a farm labor vehicle, regardless of the date of

certification under Section 31401.

- (d) (1) A person shall not operate a motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt. This paragraph does not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street and is engaged in the transportation of a fare-paying passenger. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a motor vehicle. This paragraph does not preempt more stringent or restrictive standards imposed by the Labor Code or another state or federal regulation regarding the transportation of employees in a motor vehicle.
- (2) For purposes of this section the phrase, "properly restrained by a safety belt" means that the lower (lap) portion of the belt crosses the hips or upper thighs of the occupant and the upper (shoulder) portion of the belt, if present, crosses the chest in front of the occupant.
- () ²(3) The operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the limousine for hire or authorized emergency vehicle unless the operator and any passengers () ³eight years of age or over () ⁴in the front seat, are properly restrained by a safety belt.
- () $^{5}(4)$ The operator of a taxicab shall not operate the taxicab unless any passengers () 3 eight years of age or over

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The message is not required to be affixed to any vehicle equipped with both a lap belt and a shoulder harness tleast two passengers in the rear seat or having no rear lap belts.

A dealer is not in violation of subdivision (b) unless a

private nonprofit entity has furnished a supply of the appropriate notices suitable for affixing as required free of charge or, having requested a resupply of notices, has not received the resupply.

(d) The department shall furnish, to a nonprofit private entity for purposes of this section, for a fee not to exceed its costs in so furnishing, at least once every six months, a list of all licensed dealers who sell used passenger vehicles.

Amended Sec. 11, Ch. 619, Stats. 1997. Effective January 1, 1998.

Mandatory Seat Belt Law

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems () 1 that require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal motor vehicle safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Motor Vehicle Safety Act.

(c) (1) As used in this section, "motor vehicle" means a passenger vehicle, a motortruck, or a truck tractor, but does not include a motorcycle.

(2) For purposes of this section, a "motor vehicle" also means a farm labor vehicle, regardless of the date of certification under Section 31401.

(d) (1) A person shall not operate a motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt. This paragraph does not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street and is engaged in the transportation of a fare-paying passenger. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a motor vehicle. This paragraph does not preempt more stringent or restrictive standards imposed by the Labor Code or another state or federal regulation regarding the transportation of employees in a motor vehicle.

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() 2 (3) The operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the limousine for hire or authorized emergency vehicle unless the operator and any passengers () 3 eight years of age or over () 4 in the front seat, are properly restrained by a safety belt.

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CALIFORNIA,

Plaintiff

Case No.

PEOPLE OF THE STATE OF

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References

C.J.S., Arrest § 65 Text References

C.J.S., Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234 West's Digest References

Searches and Seizures \$\infty\$11-85

RETURN OF PROPERTY

§ 17:28 Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Defendant. Time: Date: Place:

PROPERTY (Pen C § 1536) RETURN OF SEIZED NOTICE OF MOTION FOR

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

agents to release to the defendant the following property seized the office of the District Attorney of from the defendant's for an order directing the courtroom of the above entitled court, the defendant will move PLEASE TAKE NOTICE that on _ [date] by officers of the or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE (residence, vehicle or person) on [name of police department] Iname of police depart-[date], at the hour County, and their

ment] under the authority of search warrant no. [specify the property to be returned]

This motion will be made on the ground that (specif)

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SEARCH AND SEIZURE

property was not stolen or embezzeled] property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause, the

the motion. and documentary evidence as may be presented at the hearing of all the papers and records on file in this action, and on such oral stated orally at the conclusion of the hearing on the motion, on served and filed herewith, on such supplemental memoranda of tached declaration and memorandum of points and authorities points and authorities as may hereafter be filed with the court or This motion will be based on this notice of motion, on the at-

NOTES TO FORM

Attorney for Defendant

Pen C §§ 1536, 1539-1540

2d 507 (1998) Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972) Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

is still under the jurisdiction of the court, even if no charges have been filed horn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 or the property has not been offered or received into evidence. (Gershen-(1992), opinion modified, (July 31, 1992)) Property seized without a warrant tion for return of seized items, as well as by the court's inherent power to control and prevent the abuse of its process. (People v. Superior Court, 28 Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is Cal. Rptr. 576 (1964)) (Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 special proceeding, conducted under the provisions of Pen C §§ 1539-1540. pending, an owner's motion for return of seized property is classified as a Pen C § 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a mo-

the warrant, or that there was no probable cause to believe the existence of the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)) on grounds that the property taken was not the same as that described in Under sections 1539-1540, a nondefendant may move for return of property or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search unlawful. A defendant may move for return of property or suppression of for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

for an order delivering the property to him, upon satisfactory proof of of the allegedly stolen or embezzled property may apply to the magistrate the provisions of Pen C §§ 1407-1413. A person who claims to be the owner embezzled, the officer with custody of the property must hold it subject to Stolen property: When property is alleged to have been stolen

property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause, the

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References Text References

C.J.S., Arrest § 65

C.J.S., Internal Revenue § 807

West's Digest References C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234

Searches and Seizures \$\infty\11-85

RETURN OF PROPERTY

§ 17:28 Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

PEOPLE OF THE STATE OF CALIFORNIA, Defendant Plaintiff Time: Date: Case No.

NOTICE OF MOTION FOR PROPERTY (Pen C § 1536) RETURN OF SEIZED

Place:

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

ment] under the authority of search warrant no. from the defendant's agents to release to the defendant the following property seized agents to release to the District Attorney of _____ County _____ County for an order directing the courtroom of the above-entitled court, the defendant will move PLEASE TAKE NOTICE that on _ [date] by officers of the or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE (residence, vehicle or person) on Iname of police depart. [date], at the hour

This motion will be made on the ground that [specify the property to be returned]

(specify

3

and documentary evidence as may be presented at the hearing of all the papers and records on file in this action, and on such oral stated orally at the conclusion of the hearing on the motion, on points and authorities as may hereafter be filed with the court or served and filed herewith, on such supplemental memoranda of property was not stolen or embezzeled] tached declaration and memorandum of points and authorities This motion will be based on this notice of motion, on the at-

the motion.

NOTES TO FORM

Attorney for Defendant

Authorities

Pen C §§ 1536, 1539-1540

2d 507 (1998) Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972)
 Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

Pen C § 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a motion for return of seized items, as well as by the court's inherent power to control and prevent the abuse of its process. (People v. Superior Court, 28 Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is or the property has not been offered or received into evidence. (Gershenis still under the jurisdiction of the court, even if no charges have been filed Cal. Rptr. 576 (1964)) horn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant (Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 special proceeding, conducted under the provisions of Pen C pending, an owner's motion for return of seized property is classified as a §§ 1539-1540.

the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) Under sections 1639-1540, a nondefendant may move for return of property on grounds that the property taken was not the same as that described in the warrant, or that there was no probable cause to believe the existence of evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search unlawful. A defendant may move for return of property or suppression of for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

of the allegedly stolen or embezzled property may apply to the magistrate embezzled, the officer with custody of the property must hold it subject to the provisions of Pen C $\S\S$ 1407-1413. A person who claims to be the owner for an order delivering the property to him, upon satisfactory proof of Stolen property: When property is alleged to have been stolen or

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References Text References

, Arrest § 65

, Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234

West's Digest References

Searches and Seizures =11-85

RETURN OF PROPERTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA Return of property-Motion

PEOPLE OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF Plaintiff NOTICE OF MOTION FOR Case No.

Time:

Defendant

Date:

PROPERTY (Pen C § 1536) RETURN OF SEIZED

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

ment] under the authority of search warrant no. agents to release to the defendant the following property seized from the defendant's the office of the District Attorney of for an order directing the courtroom of the above-entitled court, the defendant will move PLEASE TAKE NOTICE that on _ [date] by officers of the or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE (residence, vehicle or person) on [name of police department] Iname of police depart-[date], at the hour County, and their

This motion will be made on the ground that (specify the property to be returned)

(specify

29

Attorney for Defendant

stated orally at the conclusion of the hearing on the motion, on

tached declaration and memorandum of points and authorities

This motion will be based on this notice of motion, on the at-

property was not stolen or embezzeled]

property seized was outside the warrant's authorization, or the

the grounds, such as the application lacked probable cause, the

and documentary evidence as may be presented at the hearing of all the papers and records on file in this action, and on such oral points and authorities as may hereafter be filed with the court or served and filed herewith, on such supplemental memoranda of

the motion.

NOTES TO FORM

Authorities

Pen C §§ 1536, 1539-1540

Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972) Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

pending, an owner's motion for return of seized property is classified as a special proceeding, conducted under the provisions of Pen C §§ 1539-1540. (Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant Pen C § 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a motion for return of seized items, as well as by the court's inherent power to control and prevent the abuse of its process. (People v. Superior Court, 28 Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is or the property has not been offered or received into evidence. (Gershenis still under the jurisdiction of the court, even if no charges have been filed Cal. Rptr. 576 (1964)) horn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166,

or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Aptr. 494 (1972)) Under sections 1539-1540, a nondefendant may move for return of property on grounds that the property taken was not the same as that described in (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)) the grounds on which the warrant was issued. (People v. Superior Court the warrant, or that there was no probable cause to believe the existence of evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search unlawful. A defendant may move for return of property or suppression of for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

Stolen property: When property is alleged to have been stolen or embezzled, the officer with custody of the property must hold it subject to for an order delivering the property to him, upon satisfactory proof of of the allegedly stolen or embezzled property may apply to the magistrate the provisions of Pen C §§ 1407-1413. A person who claims to be the owner

CALIFORNIA,

Plaintiff

NOTICE OF MOTION FOR

Case No.

PEOPLE OF THE STATE OF

SEARCH AND SEIZURE

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References

Text References

C.J.S., Arrest § 65

., Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234

West's Digest References

Searches and Seizures =11-85

RETURN OF PROPERTY

\$ 17:28 Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Defendant Place: Time: Date: RETURN OF SEIZED PROPERTY (Pen C § 1536)

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF [HIS OR HER] REPRESENTATIVE

from the defendant's agents to release to the defendant the following property seized the office of the District Attorney of courtroom of the above-entitled court, the defendant will move for an order directing the PLEASE TAKE NOTICE that on _ [date] by officers of the or as soon thereafter as counsel may be heard in the (residence, [name of police department] Iname of police departvehicle or person) on [date], at the hour County, and their

This motion will be made on the ground that [specify the property to be returned] (specify

ment] under the authority of search warrant no.

23

Attorney for Defendant

all the papers and records on file in this action, and on such oral

stated orally at the conclusion of the hearing on the motion, on

points and authorities as may hereafter be filed with the court or

and documentary evidence as may be presented at the hearing of

the motion.

Dated:

served and filed herewith, on such supplemental memoranda of

tached declaration and memorandum of points and authorities

This motion will be based on this notice of motion, on the at-

property was not stolen or embezzeled].

property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause, the

NOTES TO FORM

Authorities

Pen C §§ 1536, 1539-1540

Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972) Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

Commentary

or the property has not been offered or received into evidence. (Gershen-Cal. Rptr. 576 (1964)) horn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 is still under the jurisdiction of the court, even if no charges have been filed special proceeding, conducted under the provisions of Pen C §§ 1539-1540. (Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 pending, an owner's motion for return of seized property is classified as a Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is control and prevent the abuse of its process. (People v. Superior Court, tion for return of seized items, as well as by the court's inherent power to Pen C \S 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a mo-(1992), opinion modified, (July 31, 1992)) Property seized without a warrant

on grounds that the property taken was not the same as that described in the warrant, or that there was no probable cause to believe the existence of the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search Under sections 1539-1540, a nondefendant may move for return of property unlawful. A defendant may move for return of property or suppression of for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

embezzled, the officer with custody of the property must hold it subject to the provisions of Pen C $\S\S$ 1407-1413. A person who claims to be the owner for an order delivering the property to him, upon satisfactory proof of of the allegedly stolen or embezzled property may apply to the magistrate Stolen property: When property is alleged to have been stolen or CALIFORNIA,

Plaintiff,

NOTICE OF MOTION FOR

PROPERTY (Pen C § 1536) RETURN OF SEIZED Case No.

PEOPLE OF THE STATE OF

SEARCH AND SEIZURE

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciror vehicle to be inspected and the purpose for which the inspection is made. In addition, the affidavit shall contain either a statement applicable. An inspection warrant shall be supported by an affidavit, particularly describing the place, dwelling, structure, premises, other provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References

C.J.S. Text References

C.J.S. , Arrest § 65

., Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234 West's Digest References

Searches and Seizures \$\infty\$11-85

RETURN OF PROPERTY

Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Time: Date:

Place:

Defendant.

TO THE DISTRICT ATTORNEY OF

COUNTY AND/OR PLEASE TAKE NOTICE that on _ [HIS OR HER] REPRESENTATIVE [date], at the hour

from the defendant's agents to release to the defendant the following property seized ldate by officers of the (residence, vehicle or person) on [name of police department] County, and their

ment] under the authority of search warrant no [specify the property to be returned] Iname of police depart-

49

the office of the District Attorney of for an order directing the courtroom of the above-entitled court, the defendant will move or as soon thereafter as counsel may be heard in the

This motion will be made on the ground that (specify

Attorney for Defendant

stated orally at the conclusion of the hearing on the motion, on

points and authorities as may hereafter be filed with the court or

served and filed herewith, on such supplemental memoranda of

tached declaration and memorandum of points and authorities

This motion will be based on this notice of motion, on the at-

property was not stolen or embezzeled].

property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause, the

and documentary evidence as may be presented at the hearing of all the papers and records on file in this action, and on such oral

the motion

NOTES TO FORM

Pen C §§ 1536, 1539-1540

2d 507 (1998) Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972)
Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

or the property has not been offered or received into evidence. (Gershenhorn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 is still under the jurisdiction of the court, even if no charges have been filed search warrant. The trial court is statutorily empowered to entertain a mo-(Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant special proceeding, conducted under the provisions of Pen C §§ 1539-1540. Cal. Rptr. 576 (1964)) pending, an owner's motion for return of seized property is classified as a Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is control and prevent the abuse of its process. (People v. Superior Court, 28 tion for return of seized items, as well as by the court's inherent power to Pen C § 1536 provides for return or delivery of property seized under a

(Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). the warrant, or that there was no probable cause to believe the existence of on grounds that the property taken was not the same as that described in or seizure was illegal, or the warrant was insufficient on its face. (Buker v evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search unlawful. A defendant may move for return of property or suppression of the grounds on which the warrant was issued. (People v. Superior Court Under sections 1539-1540, a nondefendant may move for return of property Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

the provisions of Pen C $\S\S$ 1407-1413. A person who claims to be the owner of the allegedly stolen or embezzled property may apply to the magistrate for an order delivering the property to him, upon satisfactory proof of Stolen property: When property is alleged to have been stolen or the officer with custody of the property must hold it subject to

the

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References Text References

C.J.S. ., Arrest § 65

C.J.S., Internal Revenue § 807

, Searches and Seizures §§ 2-18, 20-110, 189, 217-234

Searches and Seizures \$\infty\$11-85 West's Digest References

RETURN OF PROPERTY

Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

PEOPLE OF THE STATE OF CALIFORNIA, Defendant Plaintiff Time: Date: NOTICE OF MOTION FOR PROPERTY (Pen C § 1536) RETURN OF SEIZED Case No.

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF [HIS OR HER] REPRESENTATIVE

from the defendant's agents to release to the defendant the following property seized the office of the District Attorney of courtroom of the above-entitled court, the defendant will move for an order directing the PLEASE TAKE NOTICE that on . [date] by officers of the or as soon thereafter as counsel may be heard in the (residence, vehicle or person) on [name of police department], [date], at the hour County, and their

ment] under the authority of search warrant no. This motion will be made on the ground that [specify the property to be returned]

Iname of police depart-

(specify

19

Attorney for Defendant

all the papers and records on file in this action, and on such oral

and documentary evidence as may be presented at the hearing of stated orally at the conclusion of the hearing on the motion, on

the motion.

Dated:

served and filed herewith, on such supplemental memoranda of

points and authorities as may hereafter be filed with the court or

tached declaration and memorandum of points and authorities

This motion will be based on this notice of motion, on the at-

property was not stolen or embezzeled].

property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause,

NOTES TO FORM

Pen C §§ 1536, 1539-1540

2d 507 (1998) Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972)

horn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 Cal. Rptr. 576 (1964)) is still under the jurisdiction of the court, even if no charges have been filed or the property has not been offered or received into evidence. (Gershen-(Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant tion for return of seized items, as well as by the court's inherent power to Pen C \S 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a mospecial proceeding, conducted under the provisions of Pen C §§ 1539-1540 pending, an owner's motion for return of seized property is classified as a Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is control and prevent the abuse of its process. (People v. Superior Court, 28

the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). on grounds that the property taken was not the same as that described in the warrant, or that there was no probable cause to believe the existence of or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) Under sections 1539-1540, a nondefendant may move for return of property unlawful. A defendant may move for return of property or suppression of evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

of the allegedly stolen or embezzled property may apply to the magistrate the provisions of Pen C §§ 1407-1413. A person who claims to be the owner embezzled, the officer with custody of the property must hold it subject to for an order delivering the property to him, upon satisfactory proof of Stolen property: When property is alleged to have been stolen or

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciror vehicle to be inspected and the purpose for which the inspection is made. In addition, the affidavit shall contain either a statement vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References

C.J.S., Arrest § 65 Text References

C.J.S., Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234 West's Digest References

Searches and Seizures \$\infty\$11-85

RETURN OF PROPERTY

§ 17:28 Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

CALIFORNIA, PEOPLE OF THE STATE OF Defendant. Plaintiff Date:

Case No.: NOTICE OF MOTION FOR RETURN OF SEIZED PROPERTY (Pen C § 1536)

Time: Place:

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

ment] under the authority of search warrant no. agents to release to the defendant the following property seized the office of the District Attorney of ______ County ______ agents to release the control of ______ County ______ County ______ agents to release the control of ______ County ______ County ______ ... for an order directing the courtroom of the above-entitled court, the defendant will move PLEASE TAKE NOTICE that on _ [date] by officers of the or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE (residence, vehicle or person) on Iname of police depart-[date], at the hour County, and their

This motion will be made on the ground that (specify

(specify the property to be returned).

23

SEARCH AND SEIZURE

property was not stolen or embezzeled] property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause, the

stated orally at the conclusion of the hearing on the motion, on served and filed herewith, on such supplemental memoranda of all the papers and records on file in this action, and on such oral points and authorities as may hereafter be filed with the court or the motion. and documentary evidence as may be presented at the hearing of tached declaration and memorandum of points and authorities This motion will be based on this notice of motion, on the at-

Dated:

Attorney for Defendant

NOTES TO FORM

Pen C §§ 1536, 1539-1540

Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972) Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

Cal. Rptr. 576 (1964)) or the property has not been offered or received into evidence. (Gershenis still under the jurisdiction of the court, even if no charges have been filed pending, an owner's motion for return of seized property is classified as a special proceeding, conducted under the provisions of Pen C §§ 1539-1540. horn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant (Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is control and prevent the abuse of its process. (People v. Superior Court, 28 tion for return of seized items, as well as by the court's inherent power to search warrant. The trial court is statutorily empowered to entertain a mo-Pen C § 1536 provides for return or delivery of property seized under a

the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). on grounds that the property taken was not the same as that described in the warrant, or that there was no probable cause to believe the existence of or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) unlawful. A defendant may move for return of property or suppression of evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search for return of seized property because the search warrant or seizure was Under sections 1539-1540, a nondefendant may move for return of property Illegally seized: Both criminal defendants and nondefendants may move

Stolen property: When property is alleged to have been stolen or embezzled, the officer with custody of the property must hold it subject to the provisions of Pen C §§ 1407-1413. A person who claims to be the owner of the allegedly stolen or embezzled property may apply to the magistrate for an order delivering the property to him, upon satisfactory proof of

property seized was outside the warrant's authorization, or the

the grounds, such as the application lacked probable cause, the

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References

Text References

C.J.S., Arrest § 65

C.J.S., Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234 West's Digest References

Searches and Seizures \$\iins 11-85

RETURN OF PROPERTY

§ 17:28 Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

PEOPLE OF THE STATE OF CALIFORNIA, < Defendant. Plaintiff, Time: Date: Case No.

PROPERTY (Pen C § 1536) NOTICE OF MOTION FOR RETURN OF SEIZED

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

ment] under the authority of search warrant no. agents to release to the defendant the following property seized the office of the District Attorney of courtroom of the above-entitled court, the defendant will move from the defendant's for an order directing the PLEASE TAKE NOTICE that on _ [date] by officers of the or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE (residence, vehicle or person) on [name of police department] Iname of police depart. [date], at the hour County, and their

This motion will be made on the ground that (specify

[specify the property to be returned]

19

stated orally at the conclusion of the hearing on the motion, on served and filed herewith, on such supplemental memoranda of all the papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing of points and authorities as may hereafter be filed with the court or tached declaration and memorandum of points and authorities property was not stolen or embezzeled] This motion will be based on this notice of motion, on the at-

Dated:

Attorney for Defendant

NOTES TO FORM

Pen C §§ 1536, 1539-1540

Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr. Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972)

(Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant is still under the jurisdiction of the court, even if no charges have been filed or the property has not been offered or received into evidence. (Gershenhorn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 Cal. Rptr. 576 (1964)) pending, an owner's motion for return of seized property is classified as a special proceeding, conducted under the provisions of Pen C $\S\S$ 1539-1540. control and prevent the abuse of its process. (People v. Superior Court, 28 tion for return of seized items, as well as by the court's inherent power to Pen C \S 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a mo-Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is

the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). the warrant, or that there was no probable cause to believe the existence of on grounds that the property taken was not the same as that described in Under sections 1539-1540, a nondefendant may move for return of property unlawful. A defendant may move for return of property or suppression of evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) or seizure was illegal, or the warrant was insufficient on its face. (Buker v. for return of seized property because the search warrant or seizure was Illegally seized: Both criminal defendants and nondefendants may move

the provisions of Pen C §§ 1407-1413. A person who claims to be the owner Stolen property: When property is alleged to have been stolen or embezzled, the officer with custody of the property must hold it subject to for an order delivering the property to him, upon satisfactory proof of of the allegedly stolen or embezzled property may apply to the magistrate

CALIFORNIA,

Plaintiff

PEOPLE OF THE STATE OF

cumstances reasonably justifying the failure to seek such consent. that consent to inspect has been sought and refused or facts or ciris made. In addition, the affidavit shall contain either a statement or vehicle to be inspected and the purpose for which the inspection vit, particularly describing the place, dwelling, structure, premises, applicable. An inspection warrant shall be supported by an affidaother provision of state or federal law makes another standard An inspection warrant shall be issued upon cause, unless some

NOTES TO FORM

Research References

C.J.S., Arrest § 65 Text References

C.J.S., Internal Revenue § 807

C.J.S., Searches and Seizures §§ 2-18, 20-110, 189, 217-234

West's Digest References

Searches and Seizures ©=11-85

RETURN OF PROPERTY

§ 17:28 Return of property-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Defendant. Place: Time: Date:

PROPERTY (Pen C § 1536)

NOTICE OF MOTION FOR

Case No.

RETURN OF SEIZED

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

agents to release to the defendant the following property seized the office of the District Attorney of for an order directing the _ courtroom of the above-entitled court, the defendant will move PLEASE TAKE NOTICE that on _ or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE [name of police department] [date], at the hour

ment] under the authority of search warrant no. from the defendant's [date] by officers of the (residence, vehicle or person) on Iname of police depart

[specify the property to be returned]

This motion will be made on the ground that

29

Lspecify

SEARCH AND SEIZURE

property was not stolen or embezzeled] property seized was outside the warrant's authorization, or the the grounds, such as the application lacked probable cause, the

all the papers and records on file in this action, and on such oral stated orally at the conclusion of the hearing on the motion, on served and filed herewith, on such supplemental memoranda of the motion and documentary evidence as may be presented at the hearing of points and authorities as may hereafter be filed with the court or tached declaration and memorandum of points and authorities This motion will be based on this notice of motion, on the at-

Dated:

NOTES TO FORM

Attorney for Defendant

Pen C §§ 1536, 1539-1540

Buker v. Superior Court, 25 Cal. App. 3d 1085, 102 Cal. Rptr. 494 (1972)
 Ensoniq Corp. v. Superior Court, 65 Cal. App. 4th 1537, 77, 77 Cal. Rptr.

pending, an owner's motion for return of seized property is classified as a special proceeding, conducted under the provisions of Pen C §§ 1539-1540. (Avelar v. Superior Court, 7 Cal. App. 4th 1270, 1276, 9 Cal. Rptr. 2d 536 (1992), opinion modified, (July 31, 1992)) Property seized without a warrant or the property has not been offered or received into evidence. (Gershenhorn v. Superior Court, Los Angeles County, 227 Cal. App. 2d 361, 166, 38 is still under the jurisdiction of the court, even if no charges have been filed control and prevent the abuse of its process. (People v. Superior Court, 28 Pen C \S 1536 provides for return or delivery of property seized under a search warrant. The trial court is statutorily empowered to entertain a mo-Cal. Rptr. 576 (1964)) Cal. App. 3d 600, 607, 104 Cal. Rptr. 876 (1972)) If no criminal action is tion for return of seized items, as well as by the court's inherent power to

the grounds on which the warrant was issued. (People v. Superior Court (Chico etc. Health Center), 187 Cal. App. 3d 648, 232 Cal. Rptr. 165 (1986)). the warrant, or that there was no probable cause to believe the existence of on grounds that the property taken was not the same as that described in or seizure was illegal, or the warrant was insufficient on its face. (Buker v. Superior Court, 25 Cal. App. 3d 1085, 1088, 102 Cal. Rptr. 494 (1972)) unlawful. A defendant may move for return of property or suppression of evidence pursuant to Pen C §§ 1538.5 and 1540, on grounds that the search for return of seized property because the search warrant or seizure was Under sections 1539-1540, a nondefendant may move for return of property Illegally seized: Both criminal defendants and nondefendants may move

Stolen property: When property is alleged to have been stolen or embezzled, the officer with custody of the property must hold it subject to the provisions of Pen C §§ 1407-1413. A person who claims to be the owner for an order delivering the property to him, upon satisfactory proof of of the allegedly stolen or embezzled property may apply to the magistrate

charged with or convicted of any crime and even if a third party owner is not found. (Pen C § 1411; People v. Superior Court (McGraw), 100 Cal. App. 3d 154, 158, 160 Cal. Rptr. 663 (1979)) However, due process requires the People to prove by a preponderance of the evidence that the seized property was in fact stolen or embezzled, if no charges are pending and no conviction has been obtained. Although it may be suspected that the seized property was stolen, that fact must be proven by due process of law. (People v Lawrence, 140 Cal. App. 2d 133, 138, 295 P.2d 4 (1956)) Evidence Code § 637 provides that the "things which a person possesses are presumed to be owned by him."

NOTES TO FORM

Research References

Text References
C.J.S., Searches and Seizures §§ 217-226
West's Digest References
Searches and Seizures \$=84

I. ARREST WARRANT

§ 17:30 Arrest Warrant—Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF _____

	V	PEOPLE OF THE STATE OF
Defendant.	Plaintiff,	E STATE OF
Place:	(Pen C § 1538.5) Date: Time:	SUPRESS EVIDE

Case No.:
NOTICE OF MOTION TO
SUPRESS EVIDENCE
(Pen C § 1538.5)
Date:

This motion will be made on the ground that the search and seizure pursuant to the arrest warrant was unreasonable in violation of the Fourth and Fourteenth Amendments to the United

Attorney for Defendant

NOTES TO FORM

stated orally at the conclusion of the hearing on the motion, on all the papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing of

the motion.

Dated:

served and filed herewith, on such supplemental memoranda of

tached

issuance of the arrest warrant].

inadequacies. For example: There was no probable cause for the

(specify the legal basis for the warrant's

This motion will be based on this notice of motion, on the at-

declaration and memorandum of points and authorities

States Constitution and violated the defendant's reasonable expectation of privacy. This motion will be made on the following

points and authorities as may hereafter be filed with the court or

Authorities

Pen C §§ 813-814, 816, 1427 People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

ommentary

A warrant of arrest is a written order, issued by a judge, directing any peace officer to arrest a designated person. The request for an arrest warrant must be supported by a sworn affidavit setting forth the essential facts constituting the offense and sufficient facts to establish that the defendant committed it. (Giordenello v. U.S., 357 U.S. 480, 485, 78 S. Ct. 1245, 2 L. Ed. 2d 1503 (1958)) The supporting affidavit must "allege underlying facts upon which the magistrate can independently find probable cause to arrest the accused." (Pen C §§ 813, 1427; People v. Sesslin, 68 Cal. 2d 418, 421, 67

Cal. Rptr. 409, 439 P.2d 321 (1968))

Grounds to challenge: A judge may issue an arrest warrant only if evidence is presented that the offense complained of has been committed and there is "reasonable cause" to believe defendant has committed it. (Pen C §§ 813, 1427) "Reasonable cause" and "probable cause" and "sufficient cause" are synonymous terms. (Ortega v. Superior Court, 135 Cal. App. 3d 244, 256, 185 Cal. Rptr. 297 (1982)) Any tangible evidence seized or observations made based upon an arrest warrant lacking a probable cause basis for its issuance may be suppressed.

Arrest warrant's existence must be proved: Police officers do not have to have a copy of an arrest warrant in their possession in order to make a valid arrest, when they are informed through official channels of the warrant's existence. (Pen C § 842; People v. Sanford, 265 Cal. App. 2d 960, 71 Cal. Rptr. 790 (1968)) However, upon demand the warrant must be produced in court. The production of a warrant abstract showing the existence of a facially valid warrant is sufficient. (People v Alcorn (1993) 15 Cal. 4th 652, 19 Cal. Rptr. 2d 47) If challenged, the prosecution must prove that the arresting officer actually received the transmitted arrest warrant information and, to protect against manufactured probable cause, the prosecution retains the burden of proving the source of information was something other than the imagination of another law enforcement officer. (People v.

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NOTES TO FORM

Research References

C.J.S., Searches and Seizures §§ 217-226 West's Digest References Text References

Searches and Seizures ≈84

ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Case No.

PEOPLE OF THE STATE OF CALIFORNIA Defendant. Plaintiff Time: Date: Place:

SUPRESS EVIDENCE NOTICE OF MOTION (Pen C § 1538.5)

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF - [HIS OR HER] REPRESENTATIVE

during the execution of the arrest warrant in the above-case. all property seized and observations made under authority of and courtroom of the above-entitled court, the defendant will move that the Court suppress as evidence and restore to the defendant PLEASE TAKE NOTICE that on or as soon thereafter as counsel may be heard in the Idate, at the hour

tion of the Fourth and Fourteenth Amendments to the United seizure pursuant to the arrest warrant was unreasonable in viola-This motion will be made on the ground that the search and

> and documentary evidence as may be presented at the hearing of all the papers and records on file in this action, and on such oral stated orally at the conclusion of the hearing on the motion, on served and filed herewith, on such supplemental memoranda of issuance of the arrest warrant). points and authorities as may hereafter be filed with the court or tached declaration and memorandum of points and authorities inadequacies. For example: There was no probable cause for the This motion will be based on this notice of motion, on the at-

Dated:

Attorney for Defendant

NOTES TO FORM

Authorities

Pen C §§ 813-814, 816, 1427

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

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Research References

Text References

Searches and Seizures \$284 West's Digest References C.J.S., Searches and Seizures §§ 217-226

ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

		CALIFORNIA	PEOPLE OF 1
Defendant.	A T TOTAL PAIN,	CALIFORNIA, Plaintiff	THE STATE OF
Place:	Time:	(Pen C § 1538.5)	NOTICE OF MOTION TO

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF [HIS OR HER] REPRESENTATIVE

that the Court suppress as evidence and restore to the defendant all property seized and observations made under authority of and during the execution of the arrest warrant in the above-case. courtroom of the above-entitled court, the defendant will move PLEASE TAKE NOTICE that on _ or as soon thereafter as counsel may be heard in the [date], at the hour

seizure pursuant to the arrest warrant was unreasonable in violation of This motion will be made on the ground that the search and the Fourth and Fourteenth Amendments to the United

> issuance of the arrest warrant). inadequacies. For example: There was no probable cause for the expectation of privacy. This motion will be made on the following States Constitution and violated the defendant's reasonable Ispecify the legal basis for the warrant's

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Dated:

Attorney for Defendant

NOTES TO FORM

Authorities

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47 Pen C §§ 813-814, 816, 1427

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NOTES TO FORM

Research References

Searches and Seizures 34 West's Digest References C.J.S., Searches and Seizures §§ 217-226 Text References

ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

	V	CALIFORNIA,	PEOPLE OF THE STATE OF	
Defendant.		Plaintiff.	E STATE OF	4
Place:	Time:	(Pen C § 1538.5)	SUPRESS EVIDENCE	Case Ivo.

TO THE DISTRICT ATTORNEY OF

COUNTY AND/OR PLEASE TAKE NOTICE that on _ or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE [date], at the hour

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grounds:-

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Dated:

the motion.

NOTES TO FORM

Authorities

Pen C §§ 813-814, 816, 1427

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

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NOTES TO FORM

Research References

Searches and Seizures 384 C.J.S., Searches and Seizures §§ 217-226 Text References West's Digest References

ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

	V	CALIFORNIA,	PROPIE OF THE STATE OF
Defendant.	гашип,	plaint R	TH STATE OF
Place:	Time:	(Pen C § 1538.5)	NOTICE OF MOTION TO

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

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Dated:

Attorney for Defendant

NOTES TO FORM

Pen C §§ 813-814, 816, 1427

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

Commentary

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Searches and Seizures 34 West's Digest References C.J.S., Searches and Seizures §§ 217-226 Text References

ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

PEOPLE OF THE STATE OF CALIFORNIA, Defendant. Plaintiff Place: Time:

SUPRESS EVIDENCE NOTICE OF MOTION TO Date: (Pen C § 1538.5) Case No

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

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SEARCH AND SEIZURE

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Dated:

NOTES TO FORM

Attorney for Defendant

Authorities

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47 Pen C §§ 813-814, 816, 1427

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Research References

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ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Case No.:

PEOPLE OF THE STATE OF CALIFORNIA, Defendant. Plaintiff Date: Place: Time:

SUPRESS EVIDENCE NOTICE OF MOTION (Pen C § 1538.5) TO

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

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Attorney for Defendant

NOTES TO FORM

Authorities

Pen C §§ 813-814, 816, 1427

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

upon which the magistrate can independently find probable cause to arrest the accused." (Pen C §§ 813, 1427; People v. Sesslin, 68 Cal. 2d 418, 421, 67 constituting the offense and sufficient facts to establish that the defendant committed it. (Giordenello v. U.S., 357 U.S. 480, 485, 78 S. Ct. 1245, 2 L. Cal. Rptr. 409, 439 P.2d 321 (1968)) Ed. 2d 1503 (1958)) The supporting affidavit must "allege underlying facts rant must be supported by a sworn affidavit setting forth the essential facts peace officer to arrest a designated person. The request for an arrest war-A warrant of arrest is a written order, issued by a judge, directing any

cause" are synonymous terms. (Ortega v. Superior Court, 135 Cal. App. 244, 256, 185 Cal. Rptr. 297 (1982)) Any tangible evidence seized or observa-C §§ 813, 1427) "Reasonable cause" and "probable cause" and "sufficient there is "reasonable cause" to believe the defendant has committed it. (Pen dence is presented that the offense complained of has been committed and its issuance may be suppressed. tions made based upon an arrest warrant lacking a probable cause basis for Grounds to challenge: A judge may issue an arrest warrant only if evi-3d

produced in court. The production of a warrant abstract showing the existence of a facially valid warrant is sufficient. (People v Alcorn (1993) 15 Cal other than the imagination of another law enforcement officer. (People tion retains the burden of proving the source of information was something mation and, the arresting officer actually received the transmitted arrest warrant infor-4th 652, 19 Cal Rptr 2d 47) If challenged, the prosecution must prove that have to have a copy of an arrest warrant in their possession in order to make a valid arrest, when they are informed through official channels of the warrant's existence. (Pen C § 842; People v. Sanford, 265 Cal. App. 2d Arrest warrant's existence must be proved: Police officers do not 71 Cal. Rptr. 790 (1968)) However, upon demand the warrant must be , to protect against manufactured probable cause, the prosecu-

States Constitution and violated the defendant's reasonable

erty was stolen, that fact must be proven by due process of law possesses are presumed to be owned by him. Evidence Code § 637 provides that the "things which a person (People v. Lawrence, 140 Cal. App. 2d 133, 138, 295 P.2d 4 (1956)) been obtained. Although it may be suspected that the seized propor embezzled, if no charges are pending and no conviction has derance of the evidence that the seized property was in fact stolen However, due process requires the People to prove by a preponowner is not found. (Pen C § 1411; People v. Superior Court (McGraw), 100 Cal. App. 3d 154, 158, 160 Cal. Rptr. 663 (1979)) charged with or convicted of any crime and even if a third party

NOTES TO FORM

Research References

C.J.S., Searches and Seizures §§ 217-226 West's Digest References Text References

ARREST WARRANT

Searches and Seizures = 84

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF

Case No.:

CALIFORNIA, Plaintiff Place: Time: Date:

PEOPLE OF THE STATE OF

SUPRESS EVIDENCE NOTICE OF MOTION (Pen C § 1538.5) TO

Defendant.

COUNTY AND/OR TO THE DISTRICT ATTORNEY OF

during the execution of the arrest warrant in the above-case all property seized and observations made under authority of and that the Court suppress as evidence and restore to the defendant courtroom of the above-entitled court, the defendant will move PLEASE TAKE NOTICE that on _ or as soon thereafter as counsel may be heard in the [HIS OR HER] REPRESENTATIVE [date], at the hour

seizure pursuant to the arrest warrant was unreasonable in violation of the Fourth and Fourteenth Amendments to the United This motion will be made on the ground that the search and

> issuance of the arrest warrant). expectation of privacy. This motion will be made on the following inadequacies. For example: There was no probable cause for the Ispecify the legal basis for the warrant's

stated orally at the conclusion of the hearing on the motion, on and documentary evidence as may be presented at the hearing of all the papers and records on file in this action, and on such oral points and authorities as may hereafter be filed with the court or served and filed herewith, on such supplemental memoranda of tached declaration and memorandum of points and authorities This motion will be based on this notice of motion, on the at-Dated:

Attorney for Defendant

NOTES TO FORM

Pen C §§ 813-814, 816, 1427

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

upon which the magistrate can independently find probable cause to arrest the accused." (Pen C §§ 813, 1427; People v. Sesslin, 68 Cal. 2d 418, 421, 67 Cal. Rptr. 409, 439 P.2d 321 (1968)) committed it. (Giordenello v. U.S., 357 U.S. 480, 485, 78 S. Ct. 1245, constituting the offense and sufficient facts to establish that the defendant Ed. 2d 1503 (1958)) The supporting affidavit must "allege underlying facts rant must be supported by a sworn affidavit setting forth the essential facts peace officer to arrest a designated person. The request for an arrest war-A warrant of arrest is a written order, issued by a judge, directing any 2 L

its issuance may be suppressed. cause" are synonymous terms. (Ortega v. Superior Court, 135 Cal. App. 3d 244, 256, 185 Cal. Rptr. 297 (1982)) Any tangible evidence seized or observa-C §§ 813, 1427) "Reasonable cause" and "probable cause" and "sufficient tions made based upon an arrest warrant lacking a probable cause basis for there is "reasonable cause" to believe the defendant has committed it. (Pen dence is presented that the offense complained of has been committed and Grounds to challenge: A judge may issue an arrest warrant only if evi-

have to have a copy of an arrest warrant in their possession in order to make a valid arrest, when they are informed through official channels of the warrant's existence. (Pen C § 842; People v. Sanford, 265 Cal. App. 2d 960, 71 Cal. Rptr. 790 (1968)) However, upon demand the warrant must be tion retains the burden of proving the source of information was something mation and, to protect against manufactured probable cause, the prosecuthe arresting officer actually received the bransmitted arrest warrant inforproduced in court. The production of a warrant abstract showing the existence of a facially valid warrant is sufficient. (People v Alcorn (1993) 15 Cal other than the imagination of another law enforcement officer. (People v 4th 652, 19 Cal Rptr 2d 47) If challenged, the prosecution must prove that Arrest warrant's existence must be proved: Police officers do not

States Constitution and violated the defendant's reasonable

charged with or convicted of any crime and even if a third party owner is not found. (Pen C § 1411; People v. Superior Court (McGraw), 100 Cal. App. 3d 154, 158, 160 Cal. Rptr. 663 (1979)) However, due process requires the People to prove by a preponderance of the evidence that the seized property was in fact stolen or embezzled, if no charges are pending and no conviction has been obtained. Although it may be suspected that the seized property was stolen, that fact must be proven by due process of law. (People v. Lawrence, 140 Cal. App. 2d 133, 138, 295 P.2d 4 (1956)) Evidence Code § 637 provides that the "things which a person possesses are presumed to be owned by him."

NOTES TO FORM

Research References

Text References
C.J.S., Searches and Seizures §§ 217-226
West's Digest References
Searches and Seizures ⇔84

I. ARREST WARRANT

§ 17:30 Arrest Warrant-Motion

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF _____

CALIFORNIA, Plaintiff, (Per Time)

V Defendant. Place

PEOPLE OF THE STATE OF

Time:_____
Place:_____

PLEASE TAKE NOTICE that on _______[date], at the hour of ______ or as soon thereafter as counsel may be heard in the courtroom of the above-entitled court, the defendant will move that the Court suppress as evidence and restore to the defendant all property seized and observations made under authority of and during the execution of the arrest warrant in the above-case.

This motion will be made on the ground that the search and seizure pursuant to the arrest warrant was unreasonable in violation of the Fourth and Fourteenth Amendments to the United

Dated: ___

Attorney for Defendant

NOTES TO FORM

Authorities

Pen C §§ 813-814, 816, 1427

People v. Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47

Commentary

A warrant of arrest is a written order, issued by a judge, directing any peace officer to arrest a designated person. The request for an arrest warrant must be supported by a sworn affidavit setting forth the essential facts constituting the offense and sufficient facts to establish that the defendant committed it. (Giordenello v. U.S., 357 U.S. 480, 485, 78 S. Ct. 1245, 2 L. Ed. 2d 1503 (1958)) The supporting affidavit must "allege underlying facts upon which the magistrate can independently find probable cause to arrest the accused." (Pen C §§ 813, 1427; People v. Sesslin, 68 Cal. 2d 418, 421, 67 Cal. Rptr. 409, 439 P.2d 321 (1968))

Grounds to challenge: A judge may issue an arrest warrant only if evidence is presented that the offense complained of has been committed and there is "reasonable cause" to believe the defendant has committed it. (Pen C §§ 813, 1427) "Reasonable cause" and "probable cause" and "sufficient cause" are synonymous terms. (Ortega v. Superior Court, 135 Cal. App. 3d 244, 256, 185 Cal. Rptr. 297 (1982)) Any tangible evidence seized or observations made based upon an arrest warrant lacking a probable cause basis for its issuance may be suppressed.

Arrest warrant's existence must be proved: Police officers do not have to have a copy of an arrest warrant in their possession in order to make a valid arrest, when they are informed through official channels of the warrant's existence. (Pen C § 842; People v. Sanford, 265 Cal. App. 2d 960, 71 Cal. Rptr. 790 (1968)) However, upon demand the warrant must be produced in court. The production of a warrant abstract showing the existence of a facially valid warrant is sufficient. (People v Alcorn (1993) 15 Cal 4th 652, 19 Cal Rptr 2d 47) If challenged, the prosecution must prove that the arresting officer actually received the transmitted arrest warrant information and, to protect against manufactured probable cause, the prosecution retains the burden of proving the source of information was something other than the imagination of another law enforcement officer. (People v.

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Case 5:14-cv-11951 Document 3 Filed 03/10/14 Page 25 of 26 PageID #: 36 PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner seeks to attack a sentence to be served in the future under a federal judgment, petitioner should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY Instructions - Read Carefully

- (1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or oral arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a filing fee of \$5.00 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary funds for transcripts, counsel, appeal, and other costs connected with this petition, you may request permission to proceed in forma pauperis, in which event you must complete and execute the Application to Proceed In Forma Pauperis by a Prisoner appended to this petition. You must have a prison or jail official complete the Certification section on the back of the application. If you submit an incomplete application, your request to proceed in forma pauperis will be denied.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) You must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, mail the original and at least two copies to:

Clerk of the U.S. District Court for the Eastern District of California 501 I Street, Room 4-400 Sacramento, California 95814 Case 5:14-cv-11951 Document 3 Filed 03/10/14 Page 26 of 26 PageID #: 37

SACRAMENTO COUNTY SHERIFF'S DEPARTMENT CORRECTIONAL SERVICES

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